

**INTEGRATING**  
**NATIONAL ENVIRONMENTAL POLICY ACT**  
**COMPLIANCE**  
  
INTO A  
  
**REAUTHORIZED MAGNUSON-STEVENS ACT**

*A Council Coordination Committee Concept White Paper*

February 2015

## Introduction

Fishery management involves fairly rapid cycles of adaptive management in which information about changing conditions is addressed through adjustments to the management program. In this setting, there has long been criticism that meeting the requirements of the National Environmental Policy Act (NEPA) has caused delays and introduces requirements that duplicate those in the Magnuson-Stevens Act (MSA) and other applicable law. Current rules, guidelines, and directives to comply with NEPA for marine fishery management actions has been overly expensive in terms of workload to both Council and National Marine Fisheries Service (NMFS) staff resources, with negative opportunity costs on other regulatory activities. There have been instances where current compliance with NEPA has hindered adequate compliance with MSA in terms of providing comprehensive analysis to Councils prior to their taking final action; there also have been instances of alternatives to possible action on a particular fishery issue being added or refined in the NEPA analysis document after final Council action, that are taken into consideration in the Secretarial review process executed under the MSA. The Council Coordination Committee (CCC) recommends integrating the policy objectives and key requirements of NEPA into the MSA, aligned in a timely manner, as a way to address these problems.

The delays in implementing fishery management actions as a result of current NEPA compliance protocols can be significant. Figure 1 shows contemporary timelines for accomplishing the current guidelines and procedures for NEPA, MSA, and the Administrative Procedure Act (APA), assuming the preparation of an environmental impact statement (EIS).<sup>1</sup> This figure is intended to illustrate the prolongation of the Secretarial review process after final Council action is taken under the current MSA process, and thus delay in implementation of any fishery management action. It can be seen that all three statutes require separate public comment periods, which is duplicative and contributes to lengthening the process from Council final action to implementation, in total, there are at least 8 public comment periods if one assumes a regulatory action that encompasses four Council meetings and the existing procedures after final Council action taken under each statute: 4 leading to and including final Council action and 4 subsequent to final Council action. Attachment 1, describing the Pacific Council Groundfish Fishery Biennial Specifications setting process for 2009-10 is a contemporary example of a problematic NEPA compliance process dealing with the implementation delay problem; it shows 632 days between the initiation of the process at the first Council meeting and the first day the resulting regulations were implemented.

A discussion of effort and process duplication problems between the NEPA and MSA requirements can quickly become a discussion of NEPA protocols, since the current procedures have moved to using NEPA documents to satisfy the analytical requirements of MSA. Thus, the lengthier, more complex, and more staff-expensive NEPA process has essentially subsumed the MSA analytical requirements. While it can be argued that the existing MSA requirements may not be in themselves fully sufficient for a

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<sup>1</sup> If an environmental assessment (EA) is prepared the 45-day public comment period and related comment response is not required; however, there has been an increasing trend to mandating an EIS instead of an EA in some Council regions, even for routine fishery specification regulations, such as quotas for particular fisheries that respond to new scientific information on the abundance of fish stocks.

comprehensive review of environmental impacts, it can also be argued that the current NEPA compliance protocols include review processes that duplicate what has been, or can be, much more efficiently accomplished in the Council process. Thus, it would seem more efficient to incorporate NEPA protocols into the Council process for complying with MSA, rather than trying to rationalize Council actions under the MSA into the lengthy, duplicative NEPA deliberative process.

In addition to the increase in time necessary to accomplish a fishery management action under current NEPA compliance protocols, there is a significant increase in staff workload and process compared to what is required under the MSA. This increase has been overly expensive in terms of workload to both Council and NMFS staff resources, with negative opportunity costs on other regulatory activities. Attachment 2, describing the process yielding the 6,000<sup>2</sup> page 2004 Alaska Groundfish Fisheries Final Programmatic Supplemental Environmental Impact Statement document is an example of this problem of enormous document volume and associated huge workload. While there is no accounting of the total number of FTE staff hours spent preparing this document to its final stage, it is commonly accepted that it is excessive compared to original NEPA statutory direction and it came with the cost of addressing many other important, urgent fishery management concerns that were apparent at that time.

There have also been instances where current compliance with NEPA has fallen short of adequate compliance with MSA in terms of providing comprehensive analysis, or even a full description of alternatives, to Councils prior to their taking final action. The MSA process clearly calls for all information to be available to the Councils at the time of a final decision on a recommendation to the Secretary and that the Secretary is to review the Council recommendation on the merits of the administrative record of the Council process. Current protocols using a NEPA document to satisfy MSA analytical requirements can create a problem insuring Council members make a fully informed final decision, in that the NEPA document is formally an agency document that can be modified after Council final action has taken place. There have been instances of additional analysis being added to the NEPA document, alternatives being added, or alternatives previously rejected being refined and used, prior to the Record of Decision stage in the NEPA process—well after Council final action. Taking such information into consideration in the Secretarial review process executed under the MSA represents a serious shortcoming in an efficient process designed to provide Councils the same full spectrum of information at the time of final decision making that is used in approving, disapproving, or partially approving a final Council recommendation. It also represents a serious shortcoming in the spirit of NEPA to provide for comprehensive analysis prior to decision making, as applied to Council decision making. Attachment 3, describing the sequence of events in 2012 -2013 around the New England Fishery Management Council's Framework Adjustment 50 to the Northeast Multispecies FMP is an example illustrating this particular problem.

MSA Section 304(i) (see Attachment 4), included as part of the 2007 Magnuson-Stevens Reauthorized Act, was intended to more closely align the requirements of the MSA and NEPA within NMFS's NEPA procedures (required by 40 CFR Part 1505). This section directs the agency to promulgate final procedures within 12 months of enactment. In December 2008 NMFS issued a proposed rule for this purpose, which was later withdrawn. NOAA's Office of Planning and Policy Integration has been revising NOAA Administrative Order 216-6, Environmental Review Procedures, but to date this task has not been completed. In 2013 NMFS issued a policy directive "specifically to address the unique timing and procedural requirements of the MSA." However, the CCC does not believe the current approach has made the alignment of NEPA and MSA more timely (quicker), a reduction in extraneous paperwork (smaller documents), nor more concise (less process or workload efficient), as called for in Section 304(i).

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<sup>2</sup> Many have heard about a NEPA document of about 7,000 pages for this matter. The draft SEIS was approximately 7,000 pages in length.

In the opinion of the CCC, the 2013 policy directive effectively describes the current institutional status quo.

## Proposal

The CCC proposes that the MSA be amended to address the aforementioned problems by adding a section to the end of Section 303, Contents of Fishery Management Plans, that achieves more efficient integration of NEPA intent. This new section would incorporate the key parts of NEPA verbatim, which requires Federal agencies to prepare “a detailed statement” on “the environmental impact of the proposed action” into the MSA. Currently, MSA Section 303(a)(9) requires preparation of a “fishery impact statement” as part of any FMP or FMP amendment. The proposal is to move and expand this section so that it incorporates the critical essence of NEPA including a full analysis of environmental impacts and consideration of alternatives. In addition, some important concepts in the Council on Environmental Quality implementing regulations such as the analysis of cumulative impacts and specifying opportunities for public comment would be added. Importantly, the elements of a fishery impact statement currently outlined in MSA Section 303(a)(9) would be retained in the new section. This new section also makes clear that compliance with these requirements would fulfill the requirements of NEPA. Section 304, Actions by the Secretary, is proposed to be amended to clarify how the review of plans, plan amendments, and proposed regulations would take into account the fishery impact statement. Also, a joint Councils-Secretary process is proposed for that will provide detailed guidelines and procedures on achieving the statutory intent of both NEPA and the MSA.

Conceptually, this proposed approach is similar to how the intent and essential components of the Federal Advisory Committee Act (FACA) was incorporated into the MSA. The FACA calls for several requirements to be satisfied prior to a committee providing formal advice to the federal government, including such things as public access to meetings, timely advance notice of meetings, record keeping, balanced membership, and structured procedures; it also has a lengthy process for legitimatizing committees, committee meetings, and committee recommendations. The key features of FACA were incorporated as requirements in the MSA, together with Section 302(i)(1) which states that FACA shall not apply to the Councils, CCC, Scientific and Statistical Committees, or related advisory bodies. Absent this “FACA exemption”, process requirements, delays, and other problems would render the Council role in active marine fishery actions functionally unworkable.

It is important to emphasize that this proposal is not to “get out of” complying with the intent of NEPA, not to avoid a complete and robust analysis of the full spectrum of environment effects of a fishery management proposal, to shortcut a thorough process by which the input of the public and relevant government entities is considered prior to a final decision, or to prohibit any entity from seeking legal relief if they do not believe a full review of environment effects has not occurred. On the contrary, the intent is to mandate that all the important aspects of NEPA compliance are included in a comprehensive and detailed process, that the functional equivalent of full compliance with NEPA statutory language is accomplished, and to that these important functions are achieved in a more efficient way than currently administered.

In summary, the intent of this proposal is to

- Incorporate exact or near exact key NEPA language into MSA Section 303, including
  - A reasonable range of alternatives
  - Full analysis of environmental impacts
  - An analysis of cumulative impacts
- Consolidate public comment guidelines currently adopted for NEPA implementation with those in MSA
  - Figure 2 shows a generic timeline for the proposed new process.

- Retain the conservation and fishery participant impact analysis requirements of the current MSA
- Adjust the language in Section 304 regarding Secretarial review of Council actions to include review of analytical documents for completeness of the new requirements
- Insert language making it clear that if the above requirements are accomplished, then compliance with NEPA has been achieved.
- Insert language describing a joint Council and Secretarial process establishing guidelines and regulations to codify the requirements of this new process.

**The specific proposal is as follows.** Yellow highlight has been added where the language is identical to the language in the NEPA. Gray highlight has been added where the language is identical to the language in the current MSA.

## SEC. 303 CONTENTS OF FISHERY MANAGEMENT PLANS

Delete Sec. 303(a)(9)<sup>3</sup> and create new Sec. 303(d)

(d) FISHERY IMPACT STATEMENT – Any fishery management plan (or fishery management plan amendment) prepared by any Council or by the Secretary pursuant to Sec. 303(a) or (b), or proposed regulations deemed necessary pursuant to Sec. 303(c), shall include a Fishery Impact Statement which shall assess, specify and analyze the likely effects and impact of the proposed action on the quality of the human environment.

- (1) The fishery impact statement shall describe—
  - (A) a purpose of the proposed action;
  - (B) the environmental impact of the proposed action<sup>4</sup>;
  - (C) any adverse environmental effects which cannot be avoided should the proposed action be implemented<sup>2</sup>;
  - (D) a reasonable range of alternatives to the proposed action<sup>2</sup>;
  - (E) the relationship between short-term use of fishery resources and the enhancement of long-term productivity<sup>2</sup>;
  - (F) the cumulative conservation and management effects,
  - (G) economic, and social impacts of the proposed action<sup>2</sup> on—
    - (i) participants in the fisheries and fishing communities affected by the proposed action;
    - (ii) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and
    - (iii) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery<sup>5</sup>

(2) A substantially complete Fishery Impact Statement, which may be in draft form, shall be available not less than 14 days before the beginning of the meeting at which a Council makes its final decision on the proposal (for plans, plan amendments, or proposed regulations prepared by a Council pursuant to Sec.

<sup>3</sup> Page 75 of the MSA “Blue Book”

<sup>4</sup> See 42 U.S.C. 4332, Sec. C

<sup>5</sup> See MSA 303(a)(9)

303(a) or Sec. 303(c)). Availability of this Fishery Impact Statement will be announced by the methods used by the Council to disseminate public information and the public and relevant government agencies will be invited to comment on the Fishery Impact Statement.

(3) The completed Fishery Impact Statement shall accompany the transmittal of a fishery management plan or plan amendment as specified in Sec. 304(a), as well as the transmittal of proposed regulations as specified in Sec. 304(b).

(4) The Councils shall, subject to approval by the Secretary, establish criteria to determine actions or classes of action of minor significance regarding Section 303(d) (A), (B), (D), (E), and (F), for which preparation of a Fishery Impact Statement is unnecessary and categorically excluded from the requirements of this section, and the documentation required to establish the exclusion.

(5) The Councils shall, subject to approval by the Secretary, prepare procedures for compliance with this section that provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork and effectively involve the public, including—

(A) using Council meetings to determine the scope of issues to be addressed and identifying significant issues related to the proposed action;

(B) integration of the Fishery Impact Statement development process with preliminary and final Council decision making in a manner that provides opportunity for comment from the public and relevant government agencies prior to these decision points;

(C) providing scientific, technical, and legal advice at an early stage of the development of the Fishery Impact Statement to ensure timely transmittal and Secretarial review of the proposed fishery management plan, plan amendment, or regulations to the Secretary.

(6) Actions taken in accordance with Sec. 303 procedures shall constitute fulfillment of the requirements the National Environmental Policy Act of 1970 as amended 42 U.S.C. 4371 *et seq.*) and all related implementing regulations.

Sec. 304(a) amended as follows:

(a) REVIEW OF PLANS.—

(1) ...

(2) In undertaking the review required under paragraph (1), the Secretary shall—

...[strike “and” from the end of B and at the end of C replace period with “; and”]

(D) evaluate the adequacy of the accompanying Fishery Impact Statement as basis for fully considering the environmental impacts of implementing the fishery management plan or plan amendment.

Sec. 304(b) amended as follows:

(b) REVIEW OF REGULATIONS.—

(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. The Secretary shall also immediately initiate an evaluation of the accompanying Fishery Impact Statement as a basis for fully considering the environmental impacts of implementing the proposed regulations. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

...

## **Figures and Attachments**

Figure 1. Timelines and key process steps in the existing process of aligning NEPA and MSA compliance requirements.

Figure 2. Timelines and key process steps in the proposed process of achieving NEPA compliance via revised MSA procedures.

Attachment 1. A Description of the Pacific Council 2009-10 Groundfish Fishery Biennial Specifications Process with Particular Reference to Duration Problems.

Attachment 2. A Description of the 2004 Alaska Groundfish Fishery Programmatic Supplemental Environmental Impact Statement Process with Particular Reference to Document Volume and Staff Workload.

Attachment 3. A Description of the Sequence of Events in 2012 -2013 Around the New England Fishery Management Council's Framework Adjustment 50 to the Northeast Multispecies FMP with Particular Reference to Changes in the NEPA Document Not Known to Council Members at the Time of Final Action.

Attachment 4. Section 304(i) in the Magnuson-Stevens Fishery Conservation and Management Act as Amended Through January 12, 2007

Figure 1. Timelines and key process steps in the existing process of aligning NEPA and MSA compliance requirements.

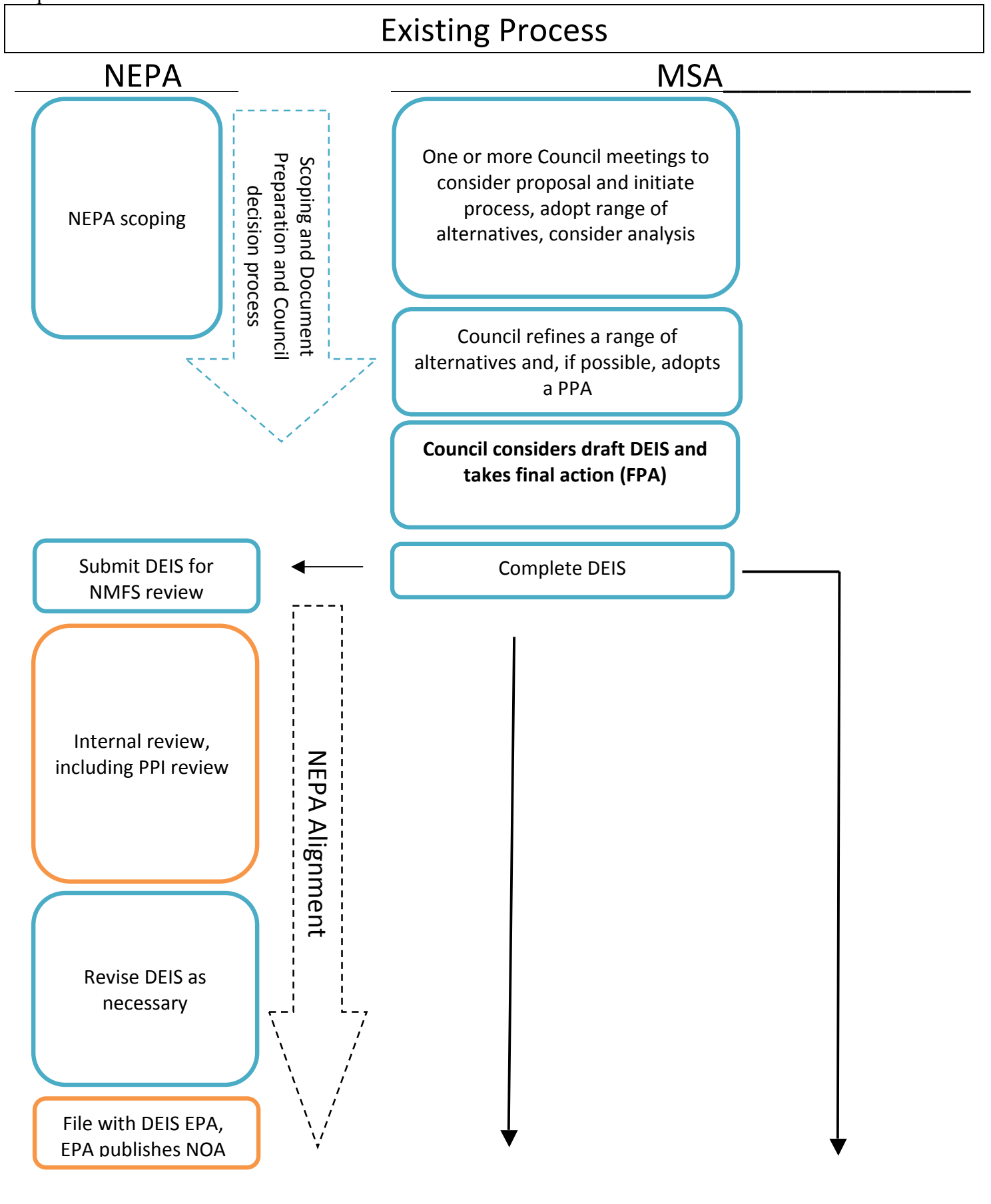




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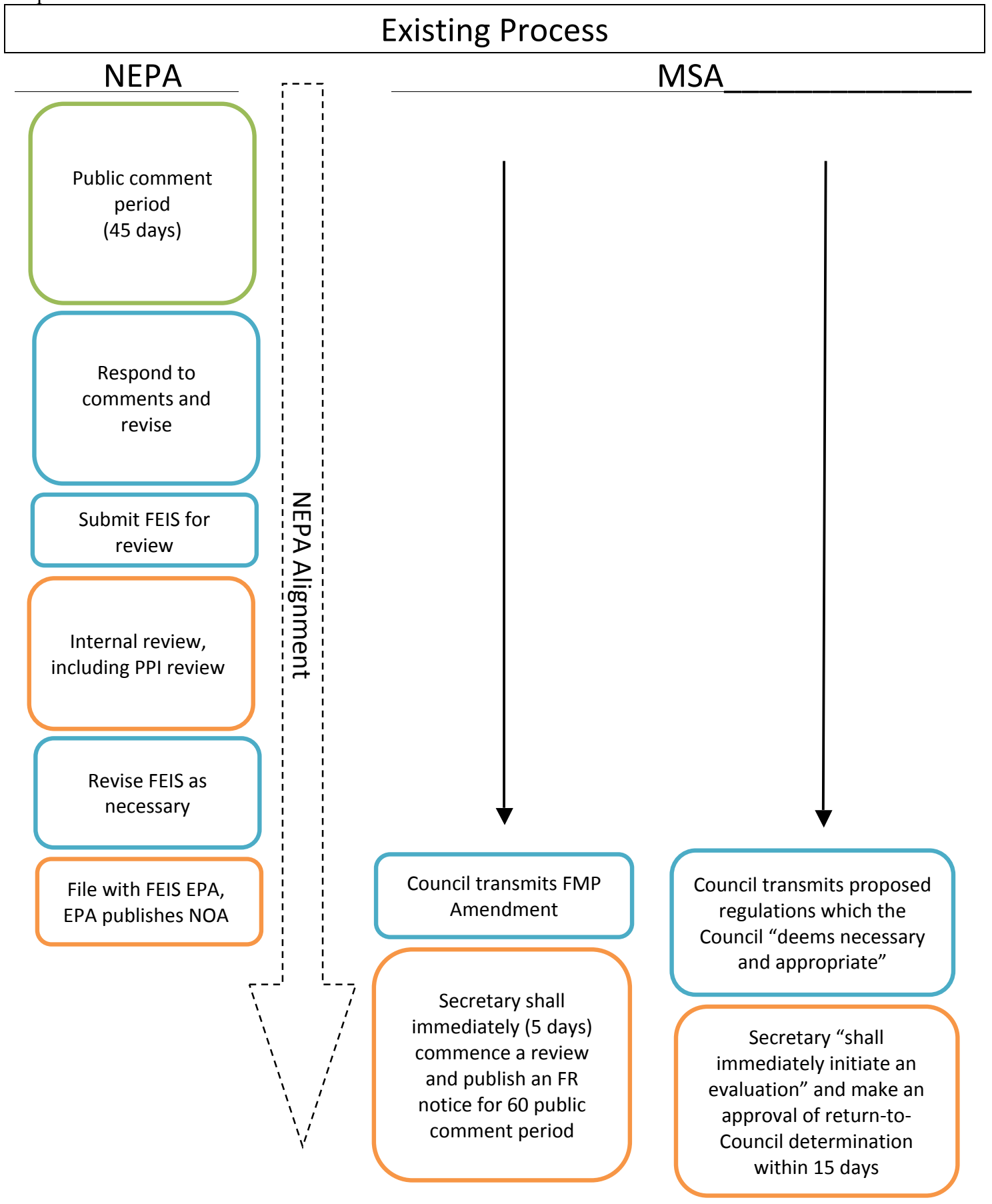


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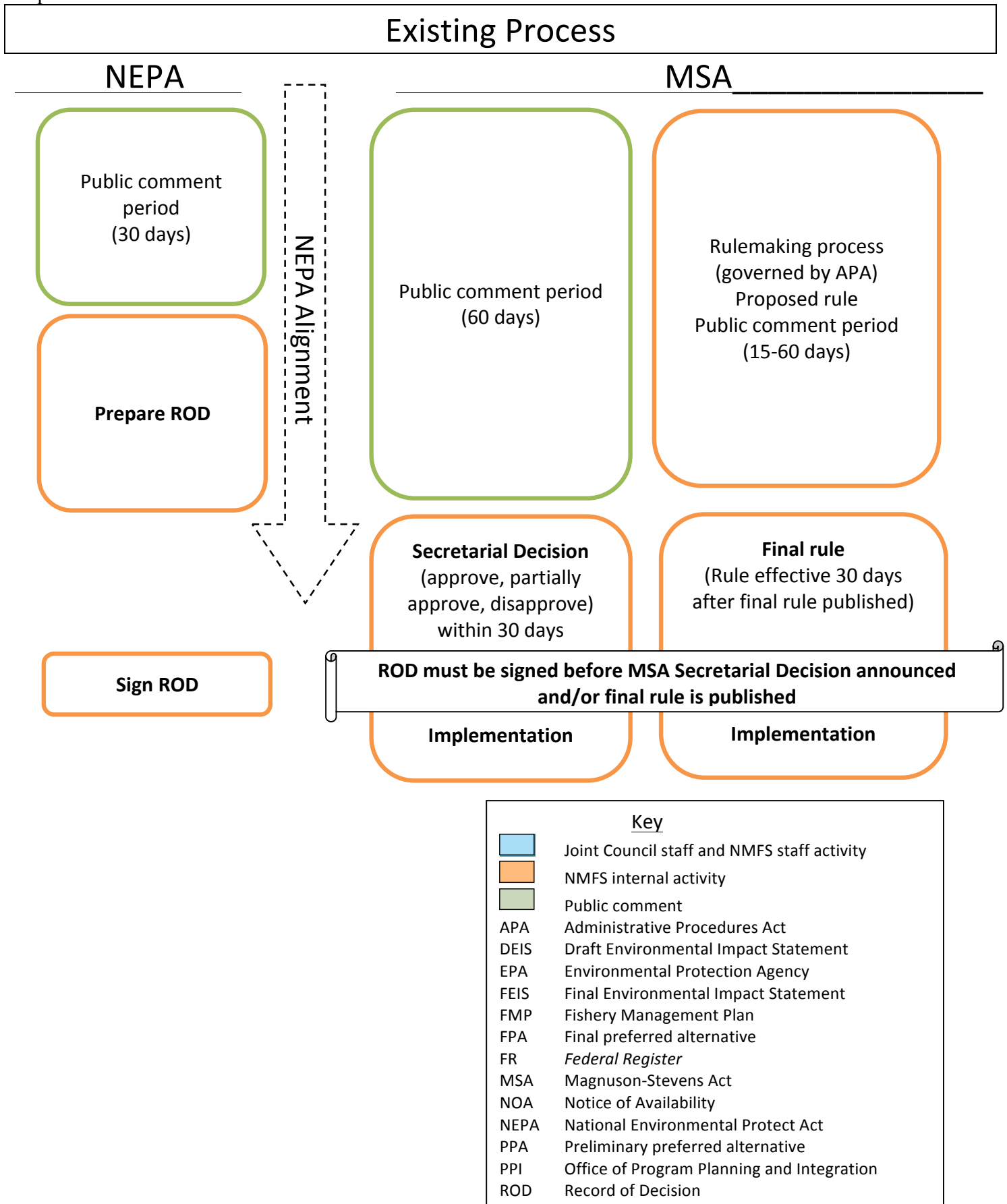
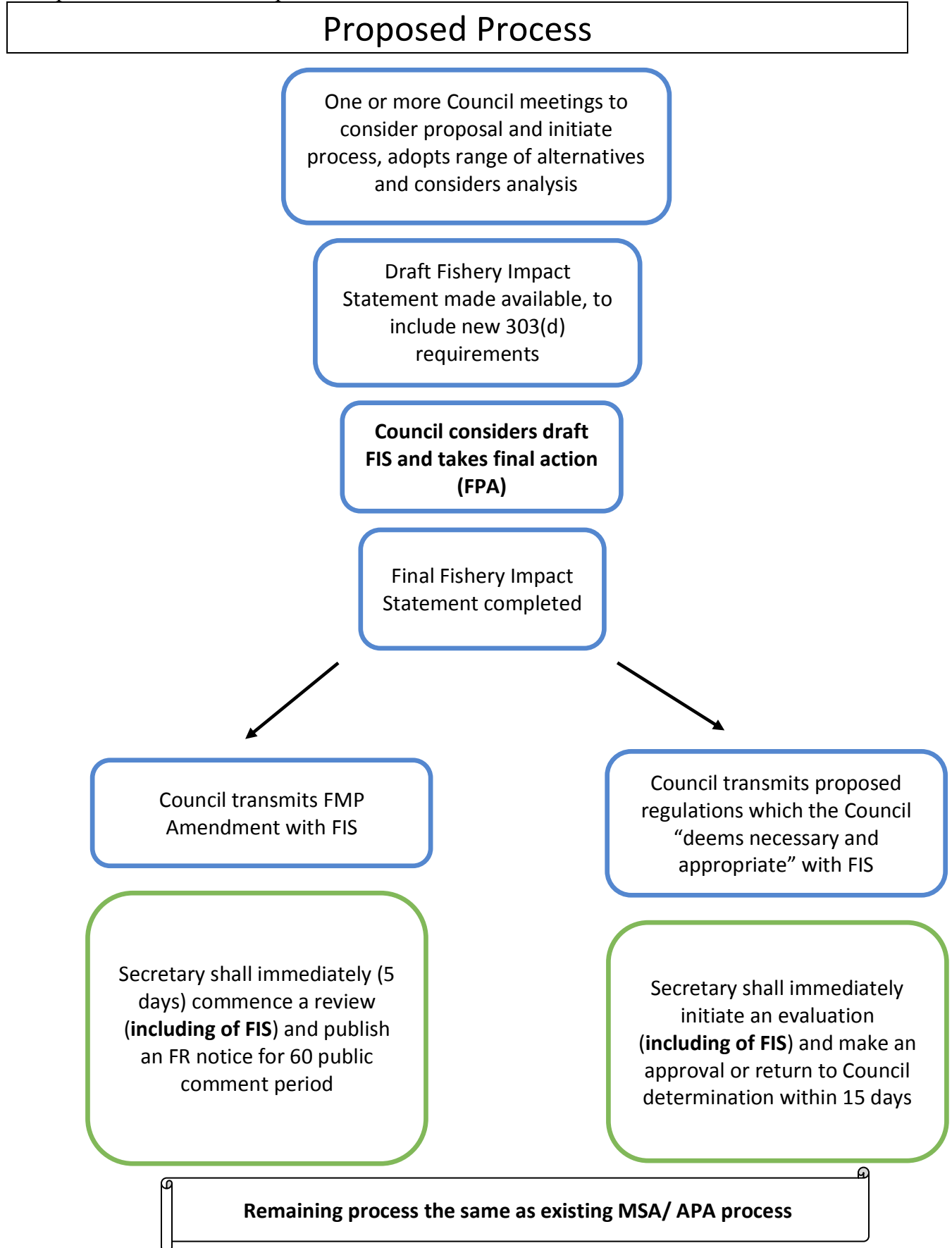


Figure 2. Timelines and key process steps in the proposed process of achieving NEPA compliance in revised MSA procedures.



## Attachment 1. A Description of the Pacific Council 2009-10 Groundfish Fishery Biennial Specifications Process with Particular Reference to Duration Problems.

Pursuant to the Pacific Coast Groundfish Fishery Management Plan harvest specifications and management measures for groundfish fisheries are set every two years for a two-year period. New regulations are supposed to be effective on January 1<sup>st</sup> of the biennial management period. Since 2003 an Environmental Impact Statement (EIS) has been prepared for this action.<sup>1</sup> Since that time, the fishery has rarely been able to start on January 1<sup>st</sup> due to the time necessary to complete the NEPA process after final Council action. It now takes about 9 months to complete the NEPA process after final Council action and the time necessary to complete the entire process approaches 21 months; this lengthy process leads to obsolescence of scientific information on fish abundance and other key fishery management information.

The table below shows key dates and time intervals during the process for developing harvest specifications for the 2009-2010 biennial period; the Final Rule implementing measures for the 2015-2016 period was effective on March 10, 2015. These intervals are typical of the process for the six biennial periods to date. Historically, Council staff has drafted the EIS, with input from NMFS staff, during the Council decision process. A completed draft EIS is provided to NMFS within a month of the Council's final action meeting. Required intervals in the EIS process combined with the need to prepare the final EIS document in response to comments on the draft accounts for much of this interval. The public comment periods for the draft and final EISs in many ways duplicate public comment opportunities afforded by Council meetings. Both written and oral public comment are accepted at each Council meeting. Advisory bodies composed of stakeholders and managers actively participate in the development of management measures.

Interval Date	Elapsed Days		Action
	Total	From Council Final Action	
June 15, 2007			June 9-15 Council Meeting: Adopt Schedule
September 14, 2007	91		September 9-14 Council Meeting: Adopt Stock Assessments
November 9, 2007	147		November 4-9 Council Meeting: Adopt Stock Assessments and Management Measures
April 12, 2008	302		April 6-12 Council Meeting: Adopt Preliminary Harvest Specifications and Management Measures
May 23, 2008	343		Federal Register Notice: Intent to Prepare an EIS
June 13, 2008	364		June 6-13 Council Meeting: Adopt Final Harvest Specifications and Management Measures
August 29, 2008	441	77	Draft Environmental Impact Statement: Notice of Availability
December 31, 2008	565	201	Federal Register Notice: Proposed Rule
January 13, 2009	578	214	Final Environmental Impact Statement: Notice of Availability
February 23, 2009	619	255	Record of Decision
March 6, 2009	630	266	Federal Register Notice: Final Rule
<b>March 1, 2009</b>	<b>625</b>	<b>261</b>	<b>Final Rule effective date</b>

<sup>1</sup> Biennial management was first implemented for the 2005-2006 period; before that harvest specifications were set annually.

**Attachment 2. A Description of the 2004 Bering Sea/Aleutian Islands and Gulf of Alaska Groundfish Fishery Programmatic Supplemental Environmental Impact Statement (PEIS) Process with Particular Reference to Document Volume and Staff Workload.**

In 2001, partly in response to Steller sea lion related litigation, the North Pacific Council initiated development of a PSEIS to support our multi-species groundfish fishery management plans. As the Council developed the scope of this document, including alternatives, elements, and options, they were informed by NOAA's Office of General Counsel that a 'No Fishing' alternative would need to be included, explaining the primary rationale as NEPA litigation avoidance. There was a counter opinion that analyzing a zero catch level alternative was in no way reasonable in a fishery where the Acceptable Biological Catch (ABC) levels total 3 to 4 million metric tons annually for over 30 consecutive years; where Total Allowable Catch (TAC, or annual catch limit) levels are roughly half that amount; for a period of fluctuation of many protected species, including Stellar sea lions; and for a fishery which supplies half the Nation's annual seafood production. The Council reluctantly agreed to include this alternative in the PSEIS, even though it felt it would only serve the ironic purpose of misleading the public with inclusion of an untenable alternative, contrary to the underlying intent of allowing and encouraging public input on a range of reasonable alternatives.

This part of the analysis totaled nearly 300 pages, which is more than twice the total page numbers cited in CEQ guidance for EIS preparation. By the time we included all of the data, information, and analysis which the agency insisted be included in order to "bulletproof" the PSEIS against litigation, the document in its entirety totaled about 6,000 pages after a series of drafts reduced the size from about 7,000 pages. The number of staff hours, for Council staff, NMFS region, science center, and headquarters staff has never been fully accounted, but is just as extreme as the volume of a 6,000 page EIS would suggest. The number of Council floor session and advisory body hours spent dealing with this project was also excessive and inefficient with regard to what a reasonable analysis of the essential fishery management policy questions and choices should have been.

Subsequent to the approval of that PSEIS, the Council was nevertheless required to prepare an annual EIS, or Environmental Assessment (EA) to support our annual specifications process, which continued to include the No Fishing Alternative. This example exemplifies the unnecessary over-application of NEPA and the severe cost in human and money resources that could otherwise be used to address serious fishery management and conservation problems.

### **Attachment 3. A Description of the Sequence of Events in 2012 -2013 Around the New England Fishery Management Council’s Framework Adjustment 50 to the Northeast Multispecies FMP with Particular Reference to Changes in the NEPA Document Not Known to Council Members at the Time of Final Action.**

#### **Introduction**

The Northeast Multispecies Fishery Management Plan, prepared by the New England Fishery Management Council (NEFMC) specifies management measures for twenty groundfish stocks in New England waters. The specification of Acceptable Biological Catches (ABCs) and Annual Catch Limits (ACLs) are typically done by the Council in a framework adjustment action, supported by an Environmental Assessment (EA, (a document that fulfills the requirements of the National Environmental Policy Act, or NEPA). In late 2012, the Council prepared Framework Adjustment 50 (FW 50) in order to set specifications for fishing years 2013-2016 for most of the stocks in the complex. FW 50 also proposed changes to several accountability measures, recreational management measures, and a revised rebuilding plan for one stock.

The Council approved FW 50 on January 30, 2013, and submitted the document (“Framework Adjustment 50 to the Northeast Multispecies FMP”) and its EA to the Northeast Regional Office (NERO, now the Greater Atlantic Regional Fisheries Office, or GARFO) on March 22, 2013. GARFO requested a number of changes and the Council resubmitted the document on April 15, 2013. GARFO released a revised document to the public on April 22, 2013 without consulting with the Council.

The revised document released by GARFO was titled “Framework Adjustment 50 to the Northeast Multispecies FMP, Fishing Year 2013 Recreational Management Measures, Secretarial Action to Modify Sector Carryover and Set Fishing Year 2013 Catch Limits for Georges Bank Yellowtail Flounder and White Hake.” There were a number of changes made to the document submitted by the Council:

- The Council considered two possible quotas for Georges Bank Yellowtail Flounder, 500 mt and 1,150 mt. The Council selected 1,150 mt as its Proposed Action. GARFO modified the document to identify 500 mt as the agency’s Preferred Alternative, and ultimately adopted this lower value. GARFO also modified the explanatory text describing the alternatives, and modified the rationale in order to support the agency’s preference. While not explained in the revised document, the proposed and final rule for this action stated that the lower quota was adopted under the emergency action authority of section 305(c) of the Magnuson-Stevens Act (M-S Act).
- GARFO added recreational management measure alternatives for GOM haddock that were not reviewed by the Council. While an earlier action authorized GARFO to make changes to recreational measures, the specific measures were not part of the Council’s deliberations on FW 50. The added measures were

identified as “not part of FW 50” even though they were included in the document. Analyses were added to the document to support the alternatives considered.

- The FMP allows sectors (a type of a catch-share cooperative) to carry-over a fixed percentage of unused allocation from one year to the next. The original FW 50 document analyzed the possible biological effects of that carry-over due to the large reductions in ACLs that were being proposed for many stocks. GARFO modified the analysis in the document in order to support an action limiting carry-over that was published in the Federal Register on March 29, 2013, and added an additional appendix to the document as well. None of these analyses were provided to the Council during its deliberations on FW 50, and they were not provided to the Council in advance of publication of the document. The Council disputed the GARFO claim that these changes were authorized by Section 305(d) of the (M-S Act).

## **Discussion**

The modification of the Preferred Alternative for the Georges Bank Yellowtail Flounder quota clearly confounds the roles of the Council and the agency. After the Council proposes an action, the M-S Act limits the agency to approve, partially approve, or disapprove the Council’s submission. In this case, the agency modified the Council’s document to help support disapproval of the Council’s Proposed Action and support an action that was taken under the emergency action authority of section 305(c) of the M-S Act. The agency felt justified to take this step in part because the EA is considered an agency document, and not a Council document, and in part to expedite implementation of its emergency action.

The addition of alternatives for recreational management measures for GOM haddock confuses the Council’s FW 50 deliberations with actions the agency took under other authorities. The measure themselves are not at issue, nor is the authority of the agency to consider and implement such measures. Adding those measures, and the accompanying analysis, to a previously submitted Council document makes it less clear what issues the Council debated and proposed during its deliberations on the action. It also makes it more difficult for the public to follow the process. Again, the agency felt justified to make these changes because it “owns” the NEPA document and this expedited implementation of the measures.

The modification of the FW 50 analyses to support an action taken by the agency under section 305(d) of the M-S Act adds material to the document that was not considered by the Council or the public during its deliberations on the framework. This would appear to conflict with M-S Act section 302(i)(6), which requires that the public have a reasonable opportunity to respond to new information before a Council takes final action. These particular analyses did not support any of the decisions made by the Council. Indeed, it is explained that the analyses were used to justify an action taken by the agency under other

authorities. This does not comply with NEPA – the alternatives the analyses supported were not even identified in the document they modified.



**Attachment 4. Section 304(i) in the Magnuson-Stevens Fishery Conservation and Management Act as Amended Through January 12, 2007.**

109-479

(i)[sic]<sup>19</sup> ENVIRONMENTAL REVIEW PROCESS.—

(1) PROCEDURES.—The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—

(A) conform to the time lines for review and approval of fishery management plans and plan amendments under this section; and

(B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.

(2) USAGE.—The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this Act.

(3) SCHEDULE FOR PROMULGATION OF FINAL PROCEDURES.—The Secretary shall—

(A) propose revised procedures within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006;

(B) provide 90 days for public review and comments; and

(C) promulgate final procedures no later than 12 months after the date of enactment of that Act.

(4) PUBLIC PARTICIPATION.—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.

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<sup>19</sup> So in original. P.L. 109-479 added two subsections as 304(i).